

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS ENFORCEMENT

LEGAL SECTION

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H. THOMAS CADELL, JR., *Chief Counsel*

March 24, 1997

James L. Valentine, CPA
507 J Street
Los Banos, CA 93635

Re: **Farm Labor Contractor Requirements**

Dear Mr. Valentine:

Your letter of February 4, 1997, concerning the above-referenced topic and addressed to Deputy Alejandro Correa of our Fresno District office has been referred to this office for response.

In your letter you ask if it would be permissible for three different employers -- all engaged in farming their own groves and/or performing packing operations -- to agree that one of the three entities be considered the employer of all the workers employed by the three entities? The answer, of course, is yes.

Next, you ask whether the employer of all of these workers, some of whom are going to be employed performing farming or packing operations for the other two entities, must have a farm labor contractors license. The answer is yes.

Labor Code § 1682 defines "person" and "farm labor contractor":

- (a) "Person" includes any individual, firm, partnership, association, limited liability company, or corporation.
- (b) "Farm labor contractor" designates any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to these persons.

Opinion/Farm Labor Contractor

4/11/08/2

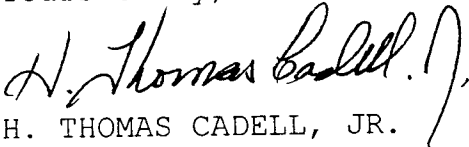
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As you can see, Employer "C" in your example, the entity which would employ all of the workers, falls into the classification of a farm labor contractor inasmuch as that entity will "employ workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person," to wit, the other two entities.

The tax consequences which you allude to are not an issue this agency would consider in determining whether one must be licensed as a farm labor contractor or not.

Thank you for your interest in California labor law. We are sorry that we can be of no assistance to you in this matter.

Yours truly,

A handwritten signature in cursive script, reading "H. Thomas Cadell, Jr.", written in dark ink.

H. THOMAS CADELL, JR.
Chief Counsel

c.c. John Duncan, Chief Deputy Director
Nance Steffen, Assistant Labor Commissioner
Greg Rupp, Assistant Labor Commissioner
Tom Grogan, Assistant Labor Commissioner
Abigail Calva, Assistant Labor Commissioner
Alejandro Correa, DLC I, Fresno